

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES, PLAINTIFF,  
v. SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, ) Magistrate Case No.: 07 MJ 2563  
Plaintiff, ) DEPUTY  
v. ) COMPLAINT FOR VIOLATION OF:  
Windy Denise CONWAY, ) Title 18, U.S.C., Section 111(a)(1)  
Defendant. ) Assault on a Federal Officer (Felony)

The undersigned complainant being duly sworn states:

COUNT 1

On or about October 9, 2007, within the Southern District of California, defendant Windy Denise CONWAY did knowingly and intentionally and forcibly assault, resist, oppose, impede, and interfere with a person named in Title 18, United States Code, section 1114, to wit, United States Department of Homeland Security, Customs and Border Protection Officer Jazzma Rainey, in that defendant struck Officer Rainey in the upper torso with her elbows and later grabbed and bent back Officer Rainey's fingers; in violation of Title 18, United States Code, Sections 111(a) (1) and (b), a felony.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

Special Agent  
U.S. Immigration and Customs  
Enforcement

Sworn to before me and subscribed in my presence this 30th day of October 2007.

presence this 30<sup>th</sup> day of October 2007.

  
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David Peter  
United States Magistrate Judge

## Statement of Facts

These facts are based on my personal participation in this investigation and on written and oral statements received from other law enforcement officers. I submit that the facts contained in this statement demonstrate that probable cause exists to believe that the defendant named in the attached complaint committed the crimes charged in the complaint.

On October 9, 2007, Windy CONWAY arrived at San Diego, California from Mexico aboard the Carnival Cruise Ship Elation. United States Customs and Border Protection (CBP) Officers Jay Galang, John Zykas, and Jazzma Rainey had been assigned to locate CONWAY on the cruise ship Elation, and take her into custody based on an outstanding arrest warrant that had been identified by CBP Officers.

During the arrest, CONWAY was combative and uncooperative and told CBP Officers that she would not be arrested or removed from her cabin in handcuffs. Once outside CONWAY'S cabin, CONWAY began to swing her elbows back and forth, striking Officer Rainey in the upper torso area approximately four times. As CONWAY was being escorted off of the ship, she was bending, shifting her weight, not cooperating, and appeared to be attempting to free herself from the handcuffs. While departing the ship CONWAY grabbed Officer Rainey's four left fingers and bent them backward. Officer Rainey gave commands to CONWAY to release her fingers at least three times before she was able to pull her hand from CONWAY'S grip. When Officer Rainey gave CONWAY commands to release her fingers, CONWAY bent over and gripped Officer Rainey's hand tighter.

CONWAY was eventually forcibly removed from the ship. Once CBP Officers had CONWAY in a secure room, CONWAY verbally threatened CBP Officer Rainey, by telling Officer Rainey that she would get hers. At that time Officer Rainey asked CONWAY if that was meant to be a threat, and CONWAY responded by saying that it was a promise.

CONWAY, who had been transported to the San Diego County Las Colinas Detention Center, was interviewed regarding this incident. CONWAY was advised of her constitutional rights, which she freely waived both verbally and in writing. During the interview, CONWAY admitted to talking back to officers, ignoring Officer Rainey's commands, and grabbing a finger that was in the handcuffs and bending it back. CONWAY stated that she had moved the officer's finger, and that she let go when she was given the command to do so. CONWAY physically demonstrated how she grabbed Officer Rainey's fingers, while describing how she grabbed the officer's fingers with her right hand. During the interview, CONWAY also physically demonstrated a back and forth swinging motion of her upper body that she performed while being escorted. CONWAY stated that she was sorry if she had hurt Officer Rainey.